

## **REMARKS**

Reconsideration of the above-identified application in view of the amendments above and the remarks following is respectfully requested.

Claims 42-77 are currently pending in this case. Claims 42-77 have been rejected under 35 U.S.C. §102 (e). Claims 42, 55, 57, 58, 71 are currently amended.

The claims before the Examiner are directed towards a method and device for retrieving information from a network-based information provider based on queries formed by electronic representations of data obtained from real-world entities by way a data-capture device. No such method or device as now claimed is neither taught nor in any way suggested by the art of record in this case.

### **Interview Summary**

Reference is made to the telephone interview conducted on October 18, 2010, between Examiners Hussain and Serrao on behalf of the PTO and Mr. Aryeh Rosenzweig, speaking under the auspices of Dr. Mark Friedman, on behalf of the Applicant. The interview addressed the § 102(b) rejection of independent claim 42 over Gelvin. Informal agreement was reached that claim 42 would be allowable over Gelvin et al. subject to a minor amendment as will be discussed.

Specifically, Applicant requested clarification where the Examiner sees the claimed limitations of independent claim 42 within the disclosure of Gelvin. Examiner Hussain pointed out that limitation (c) indeed reads on the disclosure appearing in column 36, lines 1-10. Applicant then requested similar clarification regarding limitation (b), the point of novelty of the present invention. The Examiner acknowledged that limitation (b) does not appear in Gelvin. Applicant asked if independent claim 42 is then accepted. Examiner Serrao stated that claim 42 would

be would be allowable over Gelvin et al. if the claim language was modified to more clearly indicate a transformation of captured data that excluded IP addresses.

Applicant proceeded to clarify the Examiner Hussain's intention regarding interpreting the claimed "network-enable, data-capture device" as a phone to avoid rejection under 35 USC §101. Examiner Serrao acknowledged that this was only to verify that the present invention relates to hardware and not software. Applicant noted that a data capture device includes for example, a digital camera, a microphone, a radio receiver, a geophone; all clear examples of hardware. Examiner acknowledged that indeed there are no 35 USC §101 issues.

Applicant thanks Examiners Hussain and Serrao for the courtesy of a personal interview.

#### **§ 102(e) Rejections**

The Examiner has rejected claim 42-77 under § 102(e) as being anticipated by Gelvin et al. (US 6,859,831). In view of the fact that Examiner acknowledges that all of the limitations of independent claim 42 are not disclosed in Gelvin, as noted above, the Examiner's rejection of claim 42 in view of Gelvin is moot.

As per the Examiner's request, independent claim 42 has been amended to more clearly set forth the transformation of captured data in a manner excluding a data-capture device implemented as a computer capturing IP addresses:

- (b) ~~formulating a query, said query being at least one electronic representation of a real-world entity obtained by said data capture device; by transforming data obtained from at least one real-world entity into an electronic representation of the real-world entity by way of said data capture device;~~

Support for the replacement claim set is found throughout the Description beginning on page 2 through page 15 of the original application.

The capture of IP addresses is not included in the scope of the present invention because the present invention, as currently claimed, captures data from real-world entities and transforms it into an electronic representation of that data. For example, light waves are captured by an electronic camera, audio waves are captured by a microphone, radio waves are captured by a radio receiver, and television waves are captured by a television receiver and transformed into an electronic representation. IP addresses are captured as electronic representations of numerical addresses and therefore do not require a subsequent transformation into an electronic representation. Therefore, the capture of IP addresses, and similarly MAC addresses, are outside the scope of the present invention because the limitation of "transforming" does not apply to electronic data as may seen in the below claim excerpt:

*"...formulating a query by transforming data obtained from at least one real-world entity into an electronic representation of the real-world entity by way of said data capture device; ..." (Emphasis added)*

Although Applicant believes that it has been clearly demonstrated that a capture device implemented as a computer capturing IP addresses is outside the scope of the claimed invention, for the sake of completeness, Applicant takes this opportunity to demonstrate so from a second perspective. As noted above, the present invention is directed at capturing data obtained from real-world entities. An IP address is a numerical label assigned to any device participating in a computer network by an Internet Protocol for the sake of transferring content between devices participating in the network. The IP address itself lacks any inherent content or meaning other than that assigned to it by the protocol. So being, the IP address is

therefore not data obtained from a real-world entity; but rather, an artificial construct having meaning only in the context of a computer network for the sake of facilitating delivery as noted above. Therefore, the limitation of "*obtaining data from a real-world entity*" does not apply to a computer capturing IP addresses as shown the below claim except:

*"...formulating a query by transforming data obtained from at least one real-world entity into an electronic representation of the real-world entity by way of said data capture device;..." (Emphasis added)*

**Claim 42, 55, 57, 58, 71**

Independent claim 42, and dependent claims 55, 57, 58 and 71 have been amended to correct typographical errors. Specifically, a semicolon has been appended to element (a) in claim 42 and spelling errors have been corrected in claims 55, 57, 58, and 71.

In view of the above amendments and remarks it is respectfully submitted that independent Claims 42 and 60 and hence dependent Claims 43-59 and 61-77 are in condition for allowance. Prompt notice of allowance is respectfully and earnestly solicited.

Respectfully submitted,

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